

1 BRUCE C. YOUNG, ESQ., NV Bar # 5560
2 PAIGE S. SHREVE, ESQ., NV Bar # 13773
3 LEWIS BRISBOIS BISGAARD & SMITH LLP
4 6385 S. Rainbow Boulevard, Suite 600
5 Las Vegas, Nevada 89118
6 TEL: 702.893.3383
7 FAX: 702.893.3789
8 Bruce.Young@lewisbrisbois.com
9 Paige.Shreve@lewisbrisbois.com
10 Attorneys for Defendant
11 Southern Hills Medical Center, LLC

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 MARILYN MISA-WHITE,

15 Plaintiff,

16 vs.

17 SOUTHERN HILLS MEDICAL CENTER,
18 LLC, a Nevada Limited Liability Company;
19 Does I-X; Roe Corporations I-X,

20 Defendants.

CASE NO. 2:20-cv-00180

**NOTICE TO FEDERAL COURT OF
REMOVAL OF ACTION PURSUANT TO
28 U.S.C. §§ 1331, 1441(a) AND 1446
(FEDERAL QUESTION)**

21 Pursuant to 28 U.S.C. §§ 1331, 1441(a) and 1446, Defendant SOUTHERN HILLS
22 MEDICAL CENTER, LLC (“Defendant”), by and through its attorneys LEWIS BRISBOIS
23 BISGAARD & SMITH LLP, hereby removes the above-entitled action filed by Plaintiff
24 MARILYN MISA-WHITE (“Plaintiff”), currently pending before the Eighth Judicial District
25 Court of the State of Nevada (Case No. A-19-805177-C), to the United States District Court for
26 the District of Nevada. Removal is appropriate because this Court has original subject matter
27 jurisdiction over the lawsuit under 28 U.S.C. §1331 (federal question).

28 Removal is based on the following grounds:

STATE COURT ACTION

1. On November 9, 2019, Plaintiff filed Complaint in the Eighth Judicial District
Court, Clark County, State of Nevada, entitled Marilyn Misa-White v. Southern Hills Medical

1 Center, LLC, Case No. A-19-805177-C (“State Court Action”). Pursuant to 28 U.S.C. § 1446(a),
2 a copy of the Complaint and Initial Appearance Fee Disclosure (“State Court Complaint”) are
3 attached hereto and marked as **Exhibit A**.

4 2. On January 3, 2020, Defendant’s registered agent CT Corporation was served with
5 a copy of the Summons and Complaint by process server. A true and correct copy of the Service
6 of Process Transmittal Summons of registered agent CT Corporation and Summons are attached
7 hereto as **Exhibit B**.

8 3. On November 12, 2019, the Court filed a Clerk’s Notice of Nonconforming
9 Document and on January 23, 2020 a Clerk’s Notice of Curative Action. Copies of the notices are
10 attached hereto and marked as **Exhibit C**.

11 4. On January 24, 2020, Defendant filed a timely Answer in response to Plaintiff’s
12 Complaint. A copy of the Initial Appearance Fee Disclosure and Answer is attached hereto and
13 marked as **Exhibit D**.

14 5. Removal of this action is timely pursuant to 28 U.S.C. §1446(b)(1) as Defendant is
15 filing this Notice of Removal within thirty (30) days of the date of service on Defendant.

16 6. 28 U.S.C. §1441(a) provides in relevant part that “any civil action brought in a
17 State court of which the district courts of the United States have original jurisdiction, may be
18 removed by the defendant..., to the district court of the United States for the district and division
19 embracing the place where such action is pending.” **28 U.S.C. §1441(a)**.

20 7. Clark County, Nevada is situated in the District of Nevada and therefore this Court
21 is the appropriate forum to entertain this Notice of Removal.

22 8. Removal is appropriate under this Court’s original federal jurisdiction and
23 supplemental jurisdiction as set forth in 28 U.S.C §§ 1331 and 1367, respectively. In the
24 Complaint, Plaintiff has asserted claims arising under the laws of the United States. The
25 Complaint pleads the following causes of action, as follows: (1) Interference in Violation of the
26 Family Medical Leave Act, 29 U.S.C. § 2611 *et seq.*; (2) Retaliation/Discrimination in Violation
27 of the Family Medical Leave Act, 29 U.S.C. § 2611 *et seq.*; and (3) Retaliatory Discharge in
28 Violation of Public Policy – Workers’ Compensation Retaliation. This Court has original

jurisdiction over Plaintiff's first and second claims for allege violations of the federal Family and Medical Leave Act ("FMLA") arising under 29 U.S.C. § 2611 *et seq.*, which is a law of the United States. **28 U.S.C. § 1331.** This court has supplemental jurisdiction over Plaintiff's state law claim for retaliatory discharge in violation of public policy because such claim is so related to the federal claims in the action over which the Court has original jurisdiction that they form part of the same case or controversy. **28 U.S.C. § 1367.**

9. Southern Hills Medical Center, LLC is the only named Defendant in this case and is the only Defendant to have been served. Accordingly, the requirement set forth in 28 U.S.C. § 1446(b)(2)(A) regarding consent to removal by all defendants is satisfied.

10. Pursuant to 28 U.S.C. §1446(d), Defendant is providing written notice to Plaintiff, and is filing a copy of this Notice of Removal with the Clerk of the Eighth Judicial District Court of the State of Nevada.

11. Pursuant to 28 U.S.C. §1446(a), Defendant is filing this Notice of Removal with copies of all process, pleadings, orders and other papers or exhibits served on Defendant in the State court action. See Exhibits A, B, C and D. Other than these pleadings, no other proceedings have taken place in the Eighth Judicial District Court, Clark County, Nevada.

RELIEF REQUESTED

Based on the foregoing, Defendant removes this action, Case No. A-19-805177-C, from the Eighth Judicial District Court of the State of Nevada, Clark County to the United States District Court for the District of Nevada and requests that this Court assume jurisdiction over this matter and issue such further orders and processes as may be necessary to bring before it all parties necessary for the trial of this action.

DATED this 24th day of January, 2020.

LEWIS BRISBOIS BISGAARD & SMITH LLP

/s/ Bruce C. Young

Bruce C. Young, Esq.

Paige S. Shreve, Esq.

Attorneys for Defendant

Southern Hills Medical Center, LLC

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of LEWIS BRISBOIS BISGAARD & SMITH LLP, and that on this 24th day of January, 2020, I electronically filed and served the foregoing **NOTICE TO FEDERAL COURT OF REMOVAL OF ACTION PURSUANT TO 28 U.S.C. §§ 1331, 1441(a) AND 1446 (FEDERAL QUESTION)** with the Clerk of the Court through Case Management/Electronic Filing System as follows:

James P. Kemp, Esq.

Victoria L. Neal, Esq.

KEMP & KEMP

7435 W. Azure Drive, Ste. 110

Las Vegas, NV 89130

Tel: (702) 258-1183

Fax: (702) 258-6983

Email: jp@kemp-attorneys.com

vneal@kemp-attorneys.com

Attorneys for Plaintiff Marilyn Misa-White

By /s/ Heidi Davis

An Employee of

LEWIS BRISBOIS BISGAARD & SMITH LLP

INDEX OF EXHIBITS

Exhibit A	Plaintiff's Complaint and Initial Appearance Fee Disclosure
Exhibit B	CT Corporation Service of Process Transmittal and Summons
Exhibit C	Clerk's Notice of Nonconforming Document and Clerk's Notice of Curative Action
Exhibit D	Defendant's Initial Appearance Fee Disclosure and Answer